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Attorney for Respondent Marc Antrim

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA

Patrick Robert Harvey,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 3:05-cv-0083-TMB-JDR
	)	
Marc Antrim,	)	<u>MOTION TO REQUIRE COUNSEL</u>
Commissioner, Dep't Corrections,	)	<u>TO FURTHER CLARIFY THE</u>
	)	<u>GROUND FOR HABEAS RELIEF</u>
Respondent.	)	
_____	)	

Patrick Harvey filed a petition for writ of habeas corpus. After counsel was appointed to represent him, counsel filed an amended application. [Dkt. 22] Counsel subsequently filed a statement of grounds for habeas relief. [Dkt. 27] Respondent hereby asks this court to require counsel for Harvey to further clarify the alleged grounds for relief.

In his statement of grounds for habeas relief, Harvey alleges three grounds: (1) the supposed failure of trial counsel to understand and either exclude or effectively confront the DNA evidence introduced by the prosecution; (2) the supposed failure of trial counsel to adequately investigate and use investigation material in the preparation and presentation of the defense case; and (3) the supposed failure of counsel to litigate non-specific counts prior to and at trial. [Dkt. 27 at 3] Undersigned counsel for respondent understands Harvey's first claim and does not ask for further clarification of it. But respondent asks for further clarification of Harvey's second and third claims because they are still insufficiently specific to allow undersigned counsel for respondent to determine the precise nature of the claims and whether they have been exhausted in the state courts.

Harvey's second claim involves purported inadequacies in the pretrial investigation, as well as the preparation and presentation of the defense case at trial. However, Harvey made numerous claims involving these types of purported inadequacies in the Alaska courts, and he did not make all of his claims in all of the Alaska courts. Without further information as to the nature of the purported inadequacies and how and where they were raised in the Alaska courts, undersigned counsel cannot respond in any meaningful way to this claim.

Similarly, Harvey's third claim involves the purported failure of trial counsel to

litigate non-specific counts, but the claim does not specify what counts should have been litigated, what claims with respect to those counts should have been litigated, and it does not provide any information as to how this claim was raised in the Alaska courts. Without this information, the undersigned counsel for respondent cannot respond in any meaningful way to this claim.

DATED September 14, 2006 , at Anchorage, Alaska.

DAVID W. MÁRQUEZ  
ATTORNEY GENERAL

s/ Nancy R. Simel

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### **Certificate of Service**

I certify that on September 14, 2006, a copy of the foregoing MOTION TO REQUIRE COUNSEL TO FURTHER CLARIFY THE GROUNDS FOR HABEAS RELIEF was served electronically on ABIGAIL E. SHELDON.

s/ Nancy R. Simel